

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Kotzin)
)
For:	A Method and System for)
	Managing Access to Presence)
	Attribute Information)
)
Serial No.:	10/749,321)
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Filed:	December 31, 2003)
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Examiner:	Lee, C.)
)
Art Unit:	2181)

Pre-Appeal Brief Request for Review

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby requests review of the final rejection in the above-identified application. No amendments are being filed with this request. The present request is being filed in conjunction with a notice of appeal. The review is being requested for the reasons stated below, which frames the issue to be considered as part of the pre-appeal review process.

The Examiner continues to reject claims 1, 6, 7, 10, 11, 15, 16 and 19-22 as being anticipated by Raverdy et al., US Patent No. 6,957,217; claims 2-5, 13, 14 and 23 as being unpatentable over Raverdy et al., '217, in view of Wade et al., US Patent No. 5,552,776; claims 8, 9, 17 and 18 as being unpatentable over Raverdy et al., '217, in view of Fushiki et al., US Patent No. 6,433,704; and claim 12 as being unpatentable over Raverdy et al., '217, in view of Kruse et al., US Patent No. 6,684,279. However, the applicant continues to contend that Examiner has failed to show how each and every claim feature is taught or suggested by the reference and/or combination of references being relied upon in support of each of the claims. In attempting to reject the claims, the Examiner has attempted to address each of the elements in piecemeal fashion, without regard to preserving the manner in which the claimed elements

interact. In other words, the Examiner's alleged equivalent elements fail to interact with one another in a manner which is contextually consistent with the claimed interactions. As a result the alleged equivalent structure can not in fact be deemed to be an equivalent structure, in so far as the alleged equivalent elements do not preserve or possess each and every aspect or interaction associated with the corresponding claimed element.

More specifically, relative to claim 1, the Examiner has attempted to identify the reference as making known "user presence attribute information" and separately making known "access authorization information entries", but fails to show how the "access authorization information entries" define the conditions when the corresponding "user presence attribute information" is available to the corresponding identified one or more users identified in a user field. It is not enough to attempt to allege the presence (i.e. teaching) of alleged equivalent structure in isolation, but the equivalent structure, in order to be truly equivalent structure, must interact with the other identified equivalent structure in a manner, which is consistent with the claims.

In the most recent rejection, the Examiner appears to have maintained the original objection, but indicates that applicant's arguments are moot in view of the new grounds for rejection. Such a statement appears to be in error in so far as no new grounds have been identified. Nevertheless, the Examiner does appear to attempt to address at least some of the applicant's remarks, where the applicant previously contested the Examiner's characterization of user presence attribute information, which is not the same as event information as taught or suggested by the reference. The event information as the name implies is associated with an event and is not an attribute which conveys information about a user's presence in a manner which is consistent with the understanding of one skilled in the art. Similarly, the noted time-stamp access information is similarly not equivalent to user presence attribute information.

Nevertheless, in the most recent rejection, the Examiner has focused on the time stamp information as corresponding to the user device's current (communication) situation or status (i.e. presumably alleged as being equivalent to user presence attribute information on page 2, last three lines of most recent action), but then fails to show how this information is made available to one or more users, which have been identified in a user field, and failed to identify corresponding access conditions defined by access condition entries, that when met allow the user presence attribute information to be available to the one or more users. First there is no user

field associated with the time stamp information that defines the users for which conditional access to the time stamp information is allowed. Furthermore, there are no noted access condition entries identified, which set the conditions for availability of the time stamp information.

The Examiner further attempts to identify user profile providing information such as the connection usage traits as alternatively or additionally being equivalent to the user device's current (communication) situation or status (i.e. again presumably alleged as being equivalent to user presence attribute information on page 3, first two lines of most recent action), but similarly fails to associate the information with a user field which identifies one or more users for which access to the user presence attribute information (i.e. user profile) is conditionally authorized, and further fails to identify one or more associated access condition entries, which define the condition under which access is authorized. Absent such a showing an alleged anticipation of independent claims 1 and 15 can not be maintained.

Stated simply, the Examiner should at least be able to minimally identify three elements that interact with one another in a manner set forth in claims 1 and 15.

First, the Examiner should be able to identify "user presence attribute information" in the form of one or more entries having a presence attribute value field corresponding to one or more types of presence attributes.

Second, the Examiner should be able to identify an associated user field identifying one or more users that have conditional access to user presence attribute information.

Lastly, the Examiner should be able to identify one or more associated access condition entries, which defines the conditions when the user presence attribute information is available to the corresponding one or more users.

Absent, the above noted three items, which interact in the above noted fashion outlined in the claim, the Examiner has failed to articulate any equivalent structures to the corresponding elements provided in the claims, which are contextually consistent with the claimed interaction of those elements. As of yet, the Examiner has failed to provide such a showing, where the Examiner appears to attempt to equate time stamp information to both user presence attribute information and one or more access condition entries, but at no time identifies user presence attribute information, that is both user presence attribute information and is being made conditionally available to one or more users (identified in a user field). Absent such a showing Raverdy et al., '217, contrary to the Examiner's assertions cannot be said to anticipate claims 1 and 15 of the present application. Similarly the Examiner assertions cannot be said to support a

showing of anticipation or obviousness for any of the corresponding dependent claims, to the extent that they rely upon Raverdy et al., '217, to make known the features associated with the independent base claims from which they depend.

Independent claim 23 is similarly not made obvious for the same reasons noted above, in so far as the Examiner's rejection for obviousness similarly relies upon Raverdy et al., '217, as making known the corresponding actions of receiving a request for "user presence attribute information", where the user presence attribute information is made available to the requesting user if the requesting user is determined to be authorized including having met any conditions relative to the requesting user associated with receiving access to the information.

The same basic interaction of elements, as outlined above, needs to be supported. No such showing has been made by the Examiner, where the information being sought by the requesting user is consistent with "user presence attribute information".

In absence of such a showing, the Examiner has not yet supported the minimal requirements for a rejection of any of the independent claims based upon anticipation (claims 1 and 15), or obviousness (claim 23), or correspondingly any of the claims which depend therefrom.

In view of the above remarks, the applicant would respectfully request that the Examiner's final rejection of the claims be withdrawn.

Respectfully submitted,

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